

USPTO

12/19/2007 4:45:16 PM PAGE 5/006 Fax Server

TO: Ingrid Beattie COMPANY: Mintz Levin

Application/Control Number:

Page 5

09/424,527

Art Unit: 1651

10^5 to about 5×10^7 viable CFU of said bacteria/l.

23. The method of claim 1, wherein the composition in step (a) further comprises an extracellular product of *Bacillus coagulans*.

24. The method of claim 23, wherein the extracellular product is a supernatant or filtrate of a culture of an isolated *Bacillus coagulans* strain.

25-50. (Canceled)

51. The method of claim 1, wherein the non-pathogenic lactic acid bacteria comprises *Bacillus coagulans* hamner strain Accession No. ATCC 31284.

52. The method of claim 1, wherein the oral electrolyte maintenance formulation in step (a)(ii) comprises 45 to 75 mEq/l of sodium, 20 mEq/l of potassium, 35 to 65 mEq/l of chloride, 30 mEq/l of citrate, and 20 to 25 g/l of glucose.

53. (Canceled)

Miscellaneous (Note Regarding Deposited Microorganisms)

It is noted that the microorganism(s) required to practice the claimed invention is/are currently available from repository (ATCC). It appears that this/these microorganism(s) should remain available to the public beyond the effective life of the patent. Any information to the contrary which comes to an applicant's attention *during the prosecution of this application*, must be entered in the record or otherwise be brought to the attention of the Office by the applicant.

If an Applicant has adequately established that a biological material is known and readily available, the Office will accept that showing. In those instances, however, the Applicant takes the risk that the material may cease to be known and readily available. Such a defect cannot be cured by reissue after the grant of a patent. (*MPEP 2404.01*; see 37 CFR 1.801- 37 CFR 1.809).

12/20/2007 11:55 FAX

MINTZ LEVIN

007/007

USPTO

12/19/2007 4:45:18 PM PAGE 6/006 Fax Server

TO: Ingrid Beattie COMPANY: Mintz Levin

RECEIVED
CENTRAL FAX CENTER

DEC 20 2007

Application/Control Number:
09/424,527
Art Unit: 1651

Page 6

Conclusion.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Kosar whose telephone number is (571) 270-3054. The examiner can normally be reached on Monday-Thursday, 7:30AM-5:00PM, ALT. Friday, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on (571) 272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ak/
Aaron Kosar
Examiner, Art Unit 1651